

Atty Dkt. No.: CLON-028
USSN: 09/976,673

REMARKS

In view of the following remarks, the Examiner is respectfully requested to withdraw the rejections and allow Claims 1-12 and 18-30 the only claims pending and currently under examination in this application.

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Claims 1-12 and 18-30 are pending after entry of the amendments set forth herein.

Claims 1-12 and 18-30 were examined. Claims 1-2, 5-12 and 18-30 were rejected. Claims 3 and 4 were allowed.

Claims 1, 5-10, 18-24 have been amended. Support for the amendments can be found in the claims as originally filed and throughout the specification at, for example: page 7, lines 32-35.

As the above amendments introduce no new matter to the application, their entry is respectfully requested.

Rejection Under 35 U.S.C. §112, first paragraph (Written Description)

The Office Action has maintained the rejection of Claims 1-2, 20-30 under 35 U.S.C. § 112, first paragraph, for allegedly lacking written description for the claimed genus of nucleic acid fragments and mutants. In view of the remarks made below, this rejection may be withdrawn.

In the spirit of expediting prosecution, the claims have been amended to recite that "said nucleic acid has a sequence identity of at least about 95% with SEQ ID NO: 11". As such, the amendment provides the structure and function for the claimed nucleic acids.

In view of the above and the amendments to the claims, the Applicants respectfully request that this rejection be withdrawn.

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Rejection Under 35 U.S.C. §112, first paragraph (Enablement)

The Office Action has maintained the rejection of Claims 1-2, 5-12, and 18-30 under 35 U.S.C. § 112, first paragraph, for allegedly failing to provide enablement for the claimed invention. In view of the remarks made below, this rejection may be withdrawn.

As noted above, in the spirit of expediting prosecution and without conceding to the correctness of the rejection, the claims have been amended to remove the objectionable language and to recite that the claimed nucleic acid have a sequence identity of at least 95% with SEQ ID NO:11.

In view of the above and the amendments to the claims, the Applicants respectfully request that this rejection be withdrawn.

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CONCLUSION

In view of the above remarks, this application is considered to be in good and proper form for allowance and the Examiner is respectfully requested to pass this application to issuance.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-0815.

Respectfully submitted,
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